

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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|------------------------------------|---|-----------------|
| APPLICATION OF FIBERLINE NETWORK |) | |
| COMMUNICATIONS LIMITED PARTNER- |) | |
| SHIP FOR A CERTIFICATE OF PUBLIC |) | CASE NO. 89-372 |
| CONVENIENCE AND NECESSITY TO |) | |
| PROVIDE INTRASTATE OPERATOR- |) | |
| ASSISTED RESOLD TELECOMMUNICATIONS |) | |
| SERVICES AS A NONDOMINANT CARRIER |) | |

O R D E R

On December 13, 1989, Fiberline Network Communications Limited Partnership ("Fiberline") filed its application with the Commission seeking a Certificate of Public Convenience and Necessity to provide intrastate interLATA telecommunications services including operator-assisted services in the Commonwealth of Kentucky.

The Commission ordered Fiberline to file additional information by Orders dated January 26, 1990 and April 12, 1990. Fiberline filed its responses on February 27, 1990 and May 14, 1990, respectively. On June 12, 1990, and June 26, 1990 Fiberline filed supplemental responses to its responses to the Commission Orders.

On January 22, 1990, South Central Bell Telephone Company filed a motion for full intervention in this case. The Commission granted this motion on February 9, 1990.

Fiberline originally proposed to lease private lines from Southern Interexchange ("SI") in order to transport the traffic to its switch located in Jackson, Mississippi. However, SI is not a certificated carrier in the Commonwealth of Kentucky. Therefore, Fiberline could not be classified as a reseller, rather it was classified as a facilities-based carrier to ensure that there was no avoidance of Universal Local Access Service payments. In its June 12, 1990 supplemental response, Fiberline stated it has arranged to resell services of MCI Telecommunications Corporation ("MCI") for switching and transporting the calls rather than SI's services. MCI is a certificated carrier in Kentucky. Therefore, under this configuration, Fiberline can be certificated as a reseller.

Fiberline's responses to Item 6 of the January 26, 1990 Order and to Item 4 of the April 12, 1990 Order regarding intrastate access charges cause the Commission some concern. The Commission puts Fiberline on notice that due to its out-of-Kentucky switching location, a jurisdictional misclassification problem may exist which could result in inappropriate intrastate access charges. However, this is an industry-wide problem which the Commission will continue to monitor on an industry-wide basis. The Commission will not place any special requirements on Fiberline with respect to this matter at this time.

On September 8, 1989, the Commission established Administrative Case No. 330¹ in order to address the restrictions and guidelines for the provision of operator-assisted services by all non-local exchange carriers. The non-local exchange carriers were given 30 days from the date of the Order to provide evidence or testimony why they should not have to comply with the restrictions and conditions of service contained in that Order and request a public hearing. By Order dated January 15, 1990, the Commission modified some of those requirements. The case is still pending the Commission's final decision.

Based on its application, Fiberline appears fully aware of Administrative Case No. 330 and has shown its ability and stated its intent to comply with the Orders issued in that case.

The financial, managerial, and technical capabilities of Fiberline are adequately demonstrated in the application.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that:

1. Fiberline has the financial, technical, and managerial capabilities to provide service.

2. Fiberline should be granted authority to provide intrastate interLATA telecommunications services including intrastate interLATA operator-assisted services, subject to all guidelines, requirements, restrictions, and conditions of service addressed in Administrative Case No. 330.

¹ Administrative Case No. 330, Policy and Procedures in the Provision of Operator-Assisted Telecommunications Services.

IT IS THEREFORE ORDERED that:

1. Fiberline be and it hereby is granted authority to provide intrastate interLATA telecommunications services including intrastate interLATA operator-assisted services, subject to all restrictions, conditions of service, and guidelines described in the September 8, 1989 and January 15, 1990 Orders in Administrative Case No. 330. Those requirements are:

a. Operator-assisted services shall be subject to rate regulation and rates shall not exceed AT&T Communications of the South Central States, Inc.'s ("AT&T") maximum approved rates. "Maximum approved rates" is defined as the rates approved by this Commission in AT&T's most recent rate proceeding for measured toll service applicable to operator-assisted calls, as well as the additional charges for operator assistance. Fiberline is not permitted to include any other surcharge or to bill for uncompleted calls. Time-of-day discounts shall also be applicable. Fiberline is also required to rate calls using the same basis that AT&T uses to rate calls, i.e., distance calculations based on points-of-call origination and termination, definitions of chargeable times, billing unit increments, rounding of fractional units, and minimum usages. In Case No. 9889,² the Commission allowed AT&T a limited amount of rate flexibility in

² Case No. 9889, Adjustment of Rates of AT&T Communications of the South Central States, Inc.

that it was allowed to reduce certain rates up to a maximum of 10 percent without filing the full cost support normally required in a rate proceeding. Fiberline is not required to match AT&T's rate reductions resulting from this rate flexibility. However, when there is any change in AT&T's maximum approved rates, Fiberline shall file tariffs necessary to comply with the requirements herein within 30 days from the effective date of AT&T's rate change. A copy of the Commission's Order in Case No. 89-168,³ dated June 1, 1990, which reflects AT&T's most recent rates, is attached to this Order.

b. Except as otherwise indicated in this Order, Fiberline shall be subject to regulation as delineated in the May 25, 1984 and October 26, 1984 Orders in Administrative Case No. 273,⁴ as well as any subsequent modifications to non-dominant carrier regulations. In the event of conflict, the terms of the instant Order shall take precedence, unless Fiberline is specifically relieved from compliance with any conditions contained herein.

c. Access to the operator services of competing carriers shall not be blocked or intercepted; however, this requirement does not pertain to situations where the customers who

³ Case No. 89-168, Proposed Restructure and Repricing of AT&T's Channel Services Tariff.

⁴ Administrative Case No. 273, An Inquiry Into Inter- and IntraLATA Intrastate Competition in Toll and Related Services Markets in Kentucky.

have control of premises equipment are also the users and bill-payers of the services.

d. Access to the local exchange companies' operators shall not be blocked or otherwise intercepted by traffic aggregators. Specifically, all "0 minus"⁵ calls shall be directed to the local exchange companies' operators. In equal access areas, "0 plus"⁶ intraLATA calls shall not be intercepted or blocked. In non-equal access areas, Fiberline is prohibited from blocking or intercepting "0 minus" calls; however, it is permissible to intercept "0 plus" calls.

e. Blocking and interception prohibitions shall be included in tariffs and contracts by stating that violators will be subject to immediate termination of service after 20 days notice to the owners of non-complying customer premises equipment.

f. Fiberline shall provide tent cards and stickers to be placed near or on telephone equipment provided by traffic aggregators to be used to access its services and shall include provisions in tariffs and contracts that subject violators to termination of service.

g. Operators shall be required to identify the carrier, making reference to "Fiberline," at least once during every call before any charges are incurred.

⁵ A "0 minus" or "0~" call occurs when an end-user dials zero without any following digits.

⁶ A "0 plus" or "0+" call occurs when an end-user dials zero and then dials the digits of the called telephone number.

h. Operators shall provide an indication of Fiberline's rates to any caller upon request.

i. Fiberline shall not accept calling cards for billing purposes if it is unable to validate the card.

2. This authority to provide service is strictly limited to those services described in this Order and Fiberline's application.

3. Fiberline shall fully comply with the Commission's prohibition against offering intraLATA services.

4. Fiberline shall comply with any further Orders in Administrative Case No. 330.

5. Within 30 days from the date of this Order, Fiberline shall file its tariff sheets in accordance with 807 KAR 5:011 to conform to the restrictions and conditions of service contained herein and consistent with Fiberline's responses to the Commission Orders.

Done at Frankfort, Kentucky, this 9th day of July, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director